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CENTRAL FAX CENTER

Date: 10-24-2008
To: Mail Stop Petition
FAX No(s): 571-273-8300
From: Christopher L. Bernard
No. of Pages: 10 (including cover sheet)
Re: Your Ref: _____
Our Ref: 10.0444

OCT 24 2008

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PLEASE CONFIRM RECEIPT OF THIS TRANSMISSION

Attached are: Petition for Revival of An Application For
Patent Abandoned Unavoidably Under 37 CFR 1.37(a)
Credit Card Form: \$540 Petition Fee

Part B-Fee(s) Transmittal
Credit Card Form: \$1,510 Issue Fee Payment

Thank You

OCT 24 2008

PTO/SB/81 (09-08)

Approved for use through 10/31/2008. OMB 0851-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)		Docket Number (Optional) 10.0444
First Named Inventor: <u>Chetan Jain</u>		Art Unit: <u>2145</u>
Application Number: <u>10/603,995</u>		Examiner: <u>Swearingen, Jeffrey R.</u>
Filed: <u>06-26-2003</u>		
Title: <div style="border: 1px solid black; padding: 5px; text-align: center;">Framework For Enabling Dynamic Construction Of A Network Element Management</div>		
Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450		
NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.		
The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.		
APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION. NOTE: A grantable petition requires the following items:		
(1) Petition fee. (2) Reply and/or issue fee. (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995, and for all design applications; and (4) Adequate showing of the cause of unavoidable delay.		
1. Petition fee <input type="checkbox"/> Small entity – fee \$ _____ (37 CFR 1.17(i)). Applicant claims small entity status. See 37 CFR 1.27. <input checked="" type="checkbox"/> Other than small entity – fee \$ <u>540</u> (37 CFR 1.17(i)).		
2. Reply and/or fee A The reply and/or fee to the above-noted Office action in the form of _____ (Identify the type of reply): <input type="checkbox"/> has been filed previously on _____ <input type="checkbox"/> is enclosed herewith. B The issue fee of \$ <u>\$1510</u> <input type="checkbox"/> has been filed previously on _____ <input checked="" type="checkbox"/> is enclosed herewith.		

10/24/2008 PCHOMP1 00000004 10603995

01 FC:1452

540.00 OP

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Christopher L. Bernard/

10/24/2008

Signature

Date

Christopher L. Bernard

48,234

Typed or printed name

Registration Number, if applicable

1901 Roxborough Road, Suite 300

704-790-3600

Address

Telephone Number

Charlotte, NC 28211

Address

Enclosure ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unavoidable delay

☐

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

October 24, 2008.

Date

Barbara C. Brown
Signature

Barbara C. Brown

Typed or printed name of person signing certificate

[Page 2 of 3]

PTO/SB/61 (09-08)

Approved for use through 10/31/2008, OMB 0651-0031

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

/Lawrence A. Baratta Jr./

10/24/2008

Signature

Date

Lawrence A. Baratta Jr.

59,553

Typed or printed name

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

Under MPEP 711.03(c)(1)(A), Applicants respectfully submit that the Notice of Allowance in the above case mailed on 06/30/2008 was never received in the mail. Accordingly, Applicants respectfully request grant of the petition to withdraw the holding of abandonment and remail the Notice of Allowance on the basis of Unavoidable delay.

Practitioner's utilizes IP Master as a docketing system. Attached to this petition is a copy of the record for the above application. Specifically, the last activity docketed in this case was filing an RCE on 03/31/2008. Our procedures include stamping, scanning, and docketing all incoming mail. Practitioner has reviewed the incoming mail log from 06/30/2008 until 07/15/2008, and it did not include a Notice of Allowance for the present case.

Accordingly, Practitioner respectfully states that the Notice of Allowance mailed 06/30/2008 was not received at the correspondence address of record. Further, Practitioner has searched the file jacket for the present case, and it indicates the Notice of Allowance was not received. Practitioner has attached a copy of the front of the file jacket. In the normal course of business, all activity is logged on the front of the file jacket. If the Notice of Allowance had been received, it would be included on the front of the file jacket.

Respectfully Submitted,

Clements Bernard Miller
1901 Roxborough Road, Suite 300
Charlotte, NC 28211
Tel: 704-790-3600
Fax: 704-366-9744

(Please attach additional sheets if additional space is needed.)

(Page 3 of 3)

Patent Case Print [ID 2918]

Page 1 of 2



Patent: 10.0444, United States, Regular, National,
Original Filing

Patent Data

Docket Number	10.0444	Attorney	CLB
Country	United States	Agent	
Case Type	Regular	Client/Division	Ciena Corporation
Relation Type	Original Filing	Current Owner	Ciena Corporation
Filing Type	National	Previous Owner	
Filing Number		Text #10	
Status	Filed	First Filing Date	6/26/2003
Sub Status		Sub Status Date	
Parent Country		Parent Filing Date	
Parent Number		Parent Grant Date	
Application Number	10/603,995	Application Date	6/26/2003
Patent Number		Grant Date	
Publication Number		Publication Date	
Assigned		Ind. Claims/Designs	
Convention Type		Total Claims	
Custom Code #1		Total Classes	
Tax Agent		Confirmation Number	
Operating Group		Tax Base Date	
Legal Assistant		Next Tax Date	
Custom Party #2		Expiration Date	
Custom Party #3		Custom Text #1	
Custom Party #4		Custom Date #1	
Custom Party #5		Custom Text #2	
Custom Party #6		Custom Date #2	
Custom Party #7		Custom Text #3	
Custom Party #8		Custom Date #3	
Agent Ref No		Custom Text #4	
Custom Code #2		Custom Date #4	
Custom Code #3		Text #5	
Custom Code #4		Text #6	
Custom Code #5		Text #7	
Custom Code #6		Text #8	
Custom Code #7		Text #9	
Customer Code	DOUP	Customer Name	Dougherty, Clements & Hofer

Title

FRAMEWORK FOR ENABLING DYNAMIC CONSTRUCTION OF A NETWORK ELEMENT MANAGEMENT MECHANISM FRAMEWORK FOR
ENABLING DYNAMIC CONSTRUCTION OF A NETWORK ELEMENT

Description

Current Expense Information

Other Case-Related Information

Actions

Action	Action Due Date	Taken Date	Deadline Date	Completed Date	Responsible Atty #1	Responsible Atty #2	Notes
1st Office Action				6/27/2007			
Final Rejection				1/8/2008			

Patent Case Print [ID 2918]

Page 2 of 2

Request for Continued Examination		3/31/2008	
Response to 1st office action	9/27/2007	9/28/2007	
Response first OA - 1st extens	10/27/2007	9/28/2007	Filed w/1 mo ext of time
Published	12/26/2007	1/1/1900	
Response to provoke advisory a	3/8/2008	3/7/2008	
Final rejection due	4/8/2008	3/7/2008	

CreateUser: Margaret

CreateDate: 3/6/2007

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UpdateUser: Margaret

UpdateDate: 4/1/2008

DOCKET NO. 10.0444

APPLICANT Ciena

INVENTOR(S) Chetan Jay Veng Wang, Rajasakar Venkatesan, Abhishek ...

TITLE Framework for Enabling Dynamic Construction of A Network Element Management Mechanism Framework for Enabling Dynamic Construction of A Network Element

SERIAL NO. 10/003,995

FILED 06/26/2003

ASSIGNEE Ciena

ASSIGNMENT RECORDED

REEL

FRAME

OFFICE ACTIONS

AMENDMENTS

Repetition of P/A and Address change for Attorneys Filed: 3-16-2007
Non-Final OA - Restriction Requirement - Response due 4-20-2007 Filed: 4/5/2007
Non-Final OA mailed 6/27/2007 - Response due 9/29/2007 - Filed: 09/28/2007
Drawings objected to by Examiner, Figs 7 and 10. With 1-mo. Ext. of TIME
Final OA mailed 01/08/2008; Response due 03/08/2008 (2 mos.); Response to Final OA filed 3/1/2008
Advisory Action mailed 03/26/2008; RCE Filed: 03/31/2008

NADIAN